

**REMARKS**

Claims 1-21 and 24 are pending the present application. Claims 1-14 have been withdrawn and claims 15-21 and 24 are currently being examined.

**Rejection of Claims 15-21 and 24 Under 35 USC §112, Second Paragraph**

The Examiner finds the phrase "universal control" vague and indefinite "because the term is not defined in the application..." (Paper No. 20080726, p.2)

Applicant believes that one of skill in the art would recognize that the phrase "universal control" refers to an oligonucleotide sequence included in capture oligonucleotide which acts as an internal control element for the hybridization on the array to permit standardization and quantification. However, independent claim 15 is hereby amended to delete the term "universal" to clarify that the oligonucleotide sequence referred to is a control oligonucleotide sequence. Therefore, it is submitted that claims 15-21 and 24 are definite and it is respectfully requested that the rejection be withdrawn.

**Rejection of Claims 15-19 Under 35 USC §102(b)**

Claims 15-19 stand rejected under 35 USC §102(b) as being anticipated by Dale et al. (WO 00/070093).

The Examiner asserts that Dale et al. disclose microarrays that include all the limitations mentioned in the instant claims. In particular, page 20, lines 5-28 of the Dale et al. reference is cited as teaching "positive and negative controls." Page 19, lines 4-26 of Dale et al. is cited as teaching "the use of various copy numbers of sequences on the array."

Applicant submits that the Dale et al. reference does not appear to disclose all aspects of claims 15-19. In particular, Applicant finds no apparent disclosure relating to at least two capture oligonucleotides on a substrate wherein the capture oligonucleotides each include a control or spacer nucleotide sequence and at least two replicates of a nucleotide sequence complementary to a first or second short RNA fragment.

Applicant notes that the present claims indicate that a capture oligonucleotide has at least two replicates of a nucleotide sequence complementary to a first short RNA fragment and has an

additional control or spacer nucleotide sequence. In other words, a single oligonucleotide contains the two replicates and the control or spacer. Applicant finds no disclosure of a capture oligonucleotide containing two replicates of a nucleotide sequence complementary to a first short RNA fragment and a control or spacer in any of the references cited.

If the Examiner intends to maintain the anticipation rejection, Applicant respectfully requests that the specific location in the Dale et al. reference of the teaching of a capture oligonucleotide containing two replicates of a nucleotide sequence complementary to a first short RNA fragment and a control or spacer be pointed out.

In view of the lack of disclosure of all aspects of the present claims, Applicant submits that claims 15-19 are not anticipated by Dale et al. and respectfully request withdrawal of this rejection and allowance of the claims.

#### **Rejection of Claims 20, 21 and 24 Under 35 USC §103(a)**

Claims 20, 21 and 24 stand rejected under 35 USC §103(a) as being obvious over Dale et al. (WO 00/070093) in view of Houthoff et al. (U.S. Patent No. 6,133,038).

In view of Applicant's belief as to the allowability of independent claim 15, claims 20, 21 and 24, which include all aspects of claim 15, are likewise submitted to be allowable. Applicant submits that these claims encompass patentable subject matter separate from claim 15. Applicant reserves the right to make such remarks of record in the event that the rejection is maintained.

#### **Summary**

Claims 15-21 and 24 are currently pending in the instant application. In view of the above remarks, Applicant submits that the pending claims are in condition for allowance. Entry of this amendment is solicited since it is believed that the amendments to the claims place the claims in better condition for allowance or in better condition for appeal.

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Respectfully submitted,

By 

Julie K. Staple (Reg. No. 50,434)

GIFFORD, KRASS, SPRINKLE, ANDERSON  
& CITKOWSKI, P.C.

2701 Troy Center Drive, Suite 330

Post Office Box 7021

Troy, Michigan 48007-7021

(734) 913-9300 (734) 913-6007 (Fax)